

Remarks

Applicant requests reconsideration of the present application in light of the foregoing amendments and following remarks.

Claims 11-15 and 27-30 remain pending. Claims 1-10, 16-26, and 31 were previously cancelled. Claims 11 and 27 are independent.

Claims 32-42 are added. No new matter is added.

Claims 11, 12, and 27 are amended. No new matter is added.

Claims 11-15 and 27-30 are rejected. Applicant traverses the rejections.

Request to Reopen Prosecution

Applicant formally requests that prosecution of the present application be reopened pursuant to 37 C.F.R. § 41.50(b), *see also* MPEP § 1214.01. As noted at page 2 of the New Decision on Appeal dated August 12, 2010 (“New Decision”), the Decision on Appeal mailed on September 22, 2009, included reasons for affirming the prior rejections of claims 11 and 27 as constituting a new ground of rejection of those claims. Accordingly, 37 C.F.R. § 41.50(b) entitles Applicant to file the present request to reopen prosecution with submission of “an appropriate amendment of the claims so rejected,” as noted at page 8 of the New Decision.

Claims 11-15 and 27-30 are Patentable over Ito and Sitrick

The New Decision maintains previously asserted rejections that claims 11-15 and 27-30 are unpatentable over U.S. Pub. No. 2003/0121401 of Ito (“Ito”) and U.S. Patent No. 6,084,168 to Sitrick (“Sitrick”). Applicant traverses these rejections.

Claims 11-15

Independent claim 11 as amended is directed to a system of music devices operatively coupled together, and recites the following features:

- plural apparatus in physical proximity with each other and capable of at least one-way communication therebetween of an audio score,
- at least two such apparatus each comprising:
 - an audio score synthesis mechanism including a playing mechanism for playing the synthesized audio score;

an audio score mixing mechanism coupled with said synthesis mechanism for mixing plural audio scores to produce another audio score having components of each of the plural audio scores;

an audio score input mechanism coupled with said mixing mechanism to provide one or more input audio scores thereto for mixing with the synthesized and played audio score,

said synthesis mechanism, said mixing mechanism and said input mechanism being operable in real time to create a playable audio score having components of plural audio scores produced by said plural proximate apparatus;

a recording mechanism to store said playable audio score; and

an upload mechanism to upload said playable audio score to an external processor for at least one of editing, archival recording, outplaying, and CDROM programming.

Ito and Sitrick fail to teach or suggest plural proximate apparatus that each comprise “a recording mechanism to store said playable audio score,” as recited in independent claim 11. For example, Ito merely describes an external storage device 75, *see, e.g.*, FIG. 3, that includes “recording media [to] store *various programs* as well as *various data used for implementing various functions* of this apparatus,” *see* paragraph [0043] (emphasis added). Indeed, nothing in Ito or Sitrick teaches or suggests plural proximate apparatus that each store a playable audio score as recited in the claims, let alone the recited “recording mechanism to store said playable audio score.”

Furthermore, Ito and Sitrick fail to teach or suggest plural proximate apparatus that each upload a playable audio score to an external processor as recited in the claims, let alone plural proximate apparatus that each comprise “an upload mechanism to upload said playable audio score to an external processor for at least one of editing, archival recording, outplaying, and CDROM programming,” as recited in independent claim 11.

Because Ito and Sitrick do not teach or suggest every feature recited in independent claim 11, the rejections of independent claim 11 and its dependent claims 12-15 should be withdrawn and such action is respectfully requested.

Claims 27-30

Independent claim 27 as amended is directed to a musical system, and recites the following features:

a wireless network; and

plural portable musical apparatus in physically separated proximity with each other and capable of two-way communication therebetween of an audio score over said wireless network, each musical apparatus including:

- an audio score synthesis mechanism;
- an audio playing mechanism coupled with said network;
- an audio input mechanism coupled with said network;
- an audio score mixing mechanism coupled with said synthesis mechanism, said input mechanism and said playing mechanism, said mixing mechanism configured to mix a first audio score from said synthesis mechanism with a second audio score from said input mechanism to produce in real time a playable audio score having components of each of the first and second audio scores; and
- at least one of a recording mechanism and an upload mechanism, said recording mechanism to store said playable audio score, and said upload mechanism to upload said playable audio score to an external processor.

Ito and Sitrick fail to teach or suggest plural proximate apparatus that each store a playable audio score as recited in the claims, as noted above. Ito and Sitrick also fail to teach or suggest plural proximate apparatus that each upload a playable audio score to an external processor as recited in the claims, also noted above.

Consequently, Ito and Sitrick fail to teach or suggest plural musical apparatus that each include “at least one of a recording mechanism and an upload mechanism, said recording mechanism to store said playable audio score, and said upload mechanism to upload said playable audio score to an external processor,” as recited in independent claim 27.

Because Ito and Sitrick do not teach or suggest every feature recited in independent claim 27, the rejections of independent claim 27 and its dependent claims 28-30 should be withdrawn and such action is respectfully requested.

New Claims 32-42

Claims 32-42 are added. No new matter is added. Support for the new claims may be found in the Specification of the present application at page 4, line 7, to page 5, line 14, and page 10, line 29, to page 11, line 31, for example. Dependent claims 32-38 and 39-42 depend directly or indirectly from independent claims 11 and 27, respectively, and should each be allowed for at least the same reasons that pertain to the corresponding parent claim. Dependent claims 32-42 are also independently patentable.

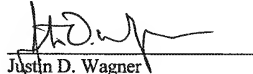
Conclusion

Applicant submits that the present application is in condition for allowance and such action is respectfully requested.

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Respectfully submitted,

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